

Title 15 - Mississippi Department of Health

Part III – Office of Health Protection

Subpart 78 – Division of Radiological Health

CHAPTER 02 -- REGULATIONS FOR TANNING FACILITIES

100.01 Purpose and Scope.

1. This Chapter provides for the registration of tanning equipment and tanning facilities and regulation of the maintenance and operation of tanning facilities.
2. In addition to the requirements of this Chapter, all registrants are subject to the applicable provision of other Chapters of these regulations.
3. Nothing in this Chapter shall be interpreted as limiting the intentional exposure of patients to ultraviolet radiation for the purpose of treatment or use commensurate with the licensed practitioner's use of a healing art.

100.02 Definitions.

The following terms are defined for purposes of this Chapter.

"Act" means the Mississippi Radiation Protection Law of 1976.

"Agency" means the Mississippi Department of Health.

"CFR" means Code of Federal Regulations.

"Consumer" means any member of the public who is provided access to a tanning facility in exchange for a fee or other compensation, or any individual who, in exchange for a fee or other compensation, is afforded use of a tanning facility as a condition or benefit of membership or access.

"FDA" means U.S. Food and Drug Administration.

"Healing arts" means the professional disciplines authorized by the laws of this state to use sources of radiation in the diagnosis or treatment of human or animal diseases.

"Individual" means any human being.

"Inspection" means an official examination or observation including but not limited to tests, surveys, and monitoring to determine compliance with rules, regulations, orders, requirements, and conditions of the Agency.

"Operator" means an individual designated by the Registrant to control operation of the tanning facility and to instruct and assist the consumer in the proper operation of the tanning equipment.

"Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this State, any other State or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing.

"Radiation" means ultraviolet radiation in these regulations.

"Radiation machine" means any device capable of producing radiation.

"Registrant" means any person who is registered with the Agency and is legally obligated to register with the Agency pursuant to these regulations and the Act.

"Registration" means registration with the Agency in accordance with regulations adopted by the Agency.

"Tanning equipment" means ultraviolet lamps and equipment containing ultraviolet lamps intended to induce skin tanning through the irradiation of any part of the living human body.

"Tanning facility" means any location, place, area, structure or business which provides consumers access to tanning equipment.

"These regulations" means all chapters of the Mississippi State Board of Health Environmental Regulations Division 800-Radiological Health, Part 78-Radiation, Chapter 100, Tanning Facilities.

"Ultraviolet radiation" means electromagnetic radiation with wavelengths in air between two hundred (200) nanometers and four hundred (400) nanometers.

100.03 Exemptions.

1. General: The Agency may, upon application therefore or upon its own initiative, grant such exemptions or exceptions from the requirements of these regulations as it determines are authorized by law and will not result in undue hazard to public health and safety.
2. Equipment intended for purposes other than the deliberate exposure of parts of the living body to ultraviolet radiation, and which produce or emit ultraviolet radiation incidental to its proper operation are exempt from the provisions of this Chapter.

3. Radiation machines while in transit or storage incidental thereto are exempt from the provisions of this Chapter.

100.04 Application for Registration of Tanning Facilities.

1. Each person having a tanning facility shall apply for registration of such facility with the Agency within thirty (30) days following the effective date of these regulations or thereafter prior to the operation of a tanning facility. Application for registration shall be completed on forms furnished by the Agency and shall contain all the information required by the form and the accompanying instructions.
2. The Agency shall require at least the following information on the Application for Registration of Tanning Facilities form:
 - a. Name, address and telephone number of the following:
 - i. the tanning facility;
 - ii. the owner(s) of the tanning facility.
 - b. The manufacturer, model number, and type of each ultraviolet lamp or tanning equipment located within the facility.
 - c. The geographic areas within the State to be covered, if the facility is mobile.
 - d. Name of the tanning equipment supplier, installer, and service agent.
 - e. A signed and dated certification that the applicant has read and understands the requirements of these regulations.
 - f. A copy of operating and safety procedures unique to facility operation.
3. Each applicant shall provide such additional information as the Agency may reasonably require.

100.05 Issuance of Certificate of Registration.

1. Upon determination that an applicant meets the requirements of these regulations, the Agency shall issue a certificate of registration.
2. The Agency may incorporate in the certificate of registration at the time of issuance or thereafter by appropriate rule, regulation or order, such additional requirements and conditions with respect to the registrant's receipt, possession, use, and transfer of tanning equipment and tanning facilities as it deems appropriate or necessary.

3. No person shall operate a tanning facility until the Agency has issued the certificate of registration.

100.06 Expiration of Certificate of Registration.

Except as provided in Chapter 100.07 (2), each certificate of registration shall expire at the end of the specified day in the month and year stated therein.

100.07 Renewal of Certificate of Registration.

1. Application for renewal of registration shall be filed in accordance with 100.04 of this Chapter.
2. In any case in which a registrant, not less than 30 days prior to the expiration of his existing certificate of registration, has filed an application in proper form for renewal, such existing certificate of registration shall not expire until the application status has been finally determined by the Agency.

100.08 Report of Changes.

The registrant shall notify the Agency in writing before making any change which would render the information reported pursuant to Chapter 100.04 (2) (a), (b), (c) and (g), contained in the application for registration and/or the certificate of registration, no longer accurate. This requirement shall not apply to changes involving replacement of designated original equipment lamp types with lamps which have been certified with the FDA as "equivalent (lamps under the FDA regulations and policies applicable at the time of replacement of the lamps. The facility owner shall maintain manufacturer's literature demonstrating the equivalency of any replacement lamps.

100.09 Transfer of Certificate of Registration.

No certificate of registration shall be transferable from one person to another or from one tanning facility to another.

100.10 Approval Not Implied.

No person, in any advertisement, shall refer to the fact that he or his facility is registered with the Agency pursuant to the provisions of 100.04 in this Chapter, and no person shall state or imply that any activity under such registration has been approved by the Agency.

100.11 Denial, Suspension, or Revocation of Certificate of Registration.

1. The Agency may, for good cause shown, deny, suspend or revoke a certificate of registration sought or issued pursuant to these regulations for any of the following reasons:

- a. Failure of reports, plans or specifications to show that the tanning facility will be constructed, operated or maintained in accordance with the requirements of these regulations;
 - b. Submission of incorrect, false or misleading information in the application, reports, plans, or specifications;
 - c. Failure to construct, operate or maintain the tanning facility in accordance with the application, plans and specifications approved by the Agency except as such maintenance may involve the replacement of lamps by "equivalent" lamps which have been defined in 100.08 of this Chapter above;
 - d. Operation of the tanning facility in a way that causes or created a nuisance or hazard to the public health or safety;
 - e. Violation of any rules, regulations, standards, or requirements adopted by the Agency;
 - f. Violation of any condition upon which the certificate of registration was issued;
 - g. Failure to allow duly authorized agents of the Agency to conduct inspections at reasonable hours and in a reasonable manner;
 - h. Failure to pay any registration or inspection fees.
 - i. Failure of the tanning equipment to comply with the Federal Performance Standard for Sunlamp Products and Ultraviolet Lamps intended for use in Sunlamp Products 21 CFR 1040.20.
2. Hearing: If any certificate of registration is denied, suspended, or revoked, the applicant or registrant may request a hearing in accordance with Chapter 45-14-21, Mississippi Code of 1972, Annotated.

100.12 Construction and Operation of Tanning Facilities.

Unless otherwise ordered or approved by the Agency, each tanning facility shall be constructed, operated, and maintained to meet the following minimum requirements:

- 1. Physical facilities
 - a. The following warning sign shall be posted in the immediate proximity (within 1 meter) of each piece of tanning equipment and it shall be readily legible, clearly visible, and not obstructed by any barrier, equipment, or other item present so that the user can easily

view the warning sign before energizing the ultraviolet light generating equipment:

DANGER - ULTRAVIOLET RADIATION

- Follow instructions.
- Avoid overexposure. As with natural sunlight, overexposure can cause eye and skin injury and allergic reactions. Repeated exposure may cause premature aging of the skin and skin cancer.
- Wear protective eyewear.

**FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT
IN SEVERE BURNS OR LONG-TERM INJURY TO THE EYES.**

- Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult a physician before using sunlamp if you are using medications or have a history of skin problems or believe yourself especially sensitive to sunlight.
- If you do not tan in the sun, you are unlikely to tan from the use of this product.

The lettering on each warning sign shall be at least ten (10) millimeters high for all words showing in capital letters and at least five (5) millimeters high for all lowercase letters.

- b. Only tanning equipment manufactured and certified to comply with 21 CFR Part 1040, Chapter
- c. 1040.20, "Sunlamp products and ultraviolet lamps intended for use in sunlamp products", shall be used in tanning facilities. Compliance shall be based on the standard in effect at the time of manufacture as shown on the device identification label required by 21 CFR Part 1010, Chapter 1010.3.
- d. Each tanning equipment shall have a timer which complies with the requirements of 21 CFR Part 1040, Chapter 1040.20(c) (2). The

maximum timer interval shall not exceed the manufacturer's maximum recommended exposure time. No timer interval shall have an error greater than $\pm 10\%$ of the maximum timer interval for the product.

- e. Tanning equipment shall meet the National Fire Protection Association's National Electrical Code.
- f. There shall be physical barriers to protect consumers from injury induced by touching or breaking the lamps.
- g. Additional requirements for stand-up booths:
 - i. there shall be physical barriers or other means such as handrails or floor markings to indicate the proper exposure distance between ultraviolet lamps and the consumer's skin.
 - ii. the construction of the booth shall be such that it will withstand the stress of use and the impact of a falling person.
 - iii. access to the booth shall be of rigid construction. Doors shall open outwardly. Handrails and nonslip floors shall be provided.
- h. Tanning equipment electrical circuit shall be approved by the Underwriter Laboratories (UL) or Electrical Testing Laboratories (ETL).

2. Protective goggles

- a. Each consumer shall be provided with protective goggles and instructions for the use.
- b. Protective goggles shall meet the requirements of 21 CFR Part 1040, Section 1040.20 (c) (5).
- c. Protective goggles shall be properly sanitized before each use. Exposure to the ultraviolet radiation produced by the tanning equipment itself is not considered a sanitizing agent.
- d. Each consumer shall wear the protective goggles as instructed.

3. Operation

- a. An operator must be present when tanning equipment is operated.
- b. Prior to initial exposure each consumer shall be provided the opportunity to read a copy of the warning specified in 100.12 (1) (a) of this Chapter. The operator shall then request that the consumer sign

a statement that the information has been read and understood. For illiterate or visually handicapped persons, the warning statement shall be read by the operator in the presence of a witness. Both the witness and the operator shall sign the statement.

- c. A record shall be kept by the facility operator of each consumer's total number of tanning visits and tanning times.
- d. A written report of any tanning injury shall be forwarded to the Agency within five [5] working days of the occurrence or knowledge thereof. The report shall include:
 - i. the name of the affected individual;
 - ii. the name and location of the tanning facility involved;
 - iii. the nature of the injury; and
 - iv. name and address of health care provider, if any;
 - v. any other information considered relevant to the situation.
- e. No consumer under sixteen years of age shall be allowed to use the tanning facility unless he or she provides a consent form signed by the parent or legal guardian. The parent or guardian shall have been provided with the basic information required under 100.12 of this Chapter.
- f. Defective or burned-out lamps or filters shall be replaced with a type intended for use in that device as specified on the product label on the tanning equipment, or, with lamps or filters that are "equivalent" under the FDA regulations and policies applicable at the time of lamp manufacture.
- g. Each operator must be adequately trained. Proof of training must be maintained in the facility and available for inspection. Training shall include:
 - i. the requirements of these regulations;
 - ii. procedures for correct operation of the facility;
 - iii. recognition of injury or overexposure;
 - iv. manufacturer's procedures for operation and maintenance of tanning equipment;
 - v. emergency procedures in case of injury.

- vi. A list of operators trained in accordance with 100.12 (3) (g) of this Chapter shall be maintained and available at the facility.

100.13 Enforcement and Penalties.

An injunction or other court order may be obtained prohibiting any violation of any provision of the Act or any regulation or order issued there under. Any person who willfully violates any provisions of the Act, or any regulation, or order issued there under, may be guilty of a misdemeanor and, upon conviction, may be punished by fine or imprisonment or both, as provided by Section 45-14-37 of the Act.

100.14 Communications.

All communications and reports concerning these regulations, and applications filed there under, should be addressed to the Division of Radiological Health at its office located at 3150 Lawson Street, P. O. Box 1700, Jackson, Mississippi, 39215-1700.